

## MAIMONIDES' INTRODUCTION TO MISHNEH TORAH



ALL the precepts which Moses received on Sinai, were given together with their interpretation, as it is said, "And I will give to you the tables of stone, and the law, and the commandment" (Ex. 24:12). "The law" refers to the Written Law; "the commandment," to its interpretation. God bade us fulfill the Law in accordance with "the commandment." This commandment refers to that which is called the Oral Law. The whole of the Law was written by Moses our Teacher before his death, in his own hand. He presented a scroll to each tribe and deposited one in the Ark for a testimony, as it is said, "Take this book of the law and put it by the side of the Ark of the Covenant of the Lord your God, that it may be there for a witness against you" (Deut. 31:26). "The commandment," which is the interpretation of the Law, he did not write down but gave a charge concerning it to the Elders, to Joshua, and to the rest of Israel, as it is said, "All this which I command you, that shall you do; you shall not add to, nor diminish from it" (*ibid.* 4:2). Hence, it is styled the Oral Law.

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See *Book of Commandments*, introduction; Letter to Joseph ibn Gabir; *Guide of the Perplexed*, introduction and I, ch. 71.

Although the Oral Law was not committed to writing, Moses taught the whole of it, in his court, to the seventy elders as well as to Eleazar, Phineas, and Joshua—all three of whom received it from Moses. To Joshua, his disciple, our teacher Moses delivered the Oral Law and charged him concerning it. So too, Joshua, throughout his life, taught orally. Many elders received the Oral Law from Joshua. Eli received it from the elders and from Phineas. Samuel, from Eli and his court. David, from Samuel and his court. . . .

R. Judah, our teacher, the saint, compiled the Mishnah. From the time of Moses to that of our teacher, the saint, no work had been composed from which the Oral Law was publicly taught. But in each generation, the head of the then existing court or the prophet of that time wrote down for his private use a memorandum of the traditions which he had heard from his teachers, and which he taught orally in public. So too, every student wrote down, according to his ability, the exposition of the Torah and of its laws, as he heard them, as well as the new matter evolved in each generation, which had not been received by tradition but had been deduced by application of the thirteen hermeneutical rules and had been adopted by the Supreme Court. This was the method in vogue till the time of our teacher, the saint.

He gathered together all the traditions, enactments, interpretations, and expositions of every portion of the Torah, that had either come down from Moses our Teacher or had been deduced by the courts in successive generations. All this material he redacted in the Mishnah, which was diligently taught in public, and thus became universally known among the Jewish people. Copies of it were made and widely disseminated, so that the Oral Law might not be forgotten in Israel.

Why did our teacher, the saint, act so and not leave things as they were? Because he observed that the number of disciples was diminishing, fresh calamities were continually happening, the wicked government was extending its domain and increasing in power, and Israelites were wandering and emigrating to distant countries. He therefore composed a work to serve as a handbook for all, the contents of which could be rapidly studied and not be forgotten. Throughout his life, he and his colleagues were engaged in giving public instruction in the Mishnah. . . .

All these sages . . . were the great men of the successive generations; some of them were presidents of colleges, some Exilarchs, and

some were members of the great Sanhedrin; besides them were thousands and myriads of disciples and fellow-students. Ravina and Rav Ashi closed the list of the sages of the Talmud. It was Rav Ashi who compiled the Babylonian Talmud in the land of Shinar (Babylon), about a century after Rabbi Johanan had compiled the Palestinian Talmud. These two Talmuds contain an exposition of the text of the Mishnah and an elucidation of its abstruse points and of the new subject matter that had been added by the various courts from the days of our teacher, the saint, till the compilation of the Talmud. The two Talmuds, the *Tosefta*, the *Sifra* and the *Sifre*, and the *Toseftot* are the sources, from all of which is elucidated what is forbidden and what is permitted, what is unclean and what is clean, what is a penal violation and what involves no penalty, what is fit to be used and what is unfit for use, all in accordance with the traditions received by the sages from their predecessors in unbroken succession up to the teachings of Moses as he received them on Sinai. From these sources too, are ascertained the decrees, instituted by the sages and prophets, in each generation, to serve as a protecting fence about the Law, in accordance with Moses' express injunction, "You shall keep My charge" (*Lev.* 18:30), that is, "Ordain a charge to preserve My charge." From these sources a clear conception is also obtained of the customs and ordinances, either formally introduced in various generations by their respective authorities or that came into use with their sanction; from these it is forbidden to depart, as it is said, "You shall not turn aside from the sentence which they shall declare to you, to the right hand, nor to the left" (*Deut.* 17:11). So too these works contain the clearly established judgments and rules not received from Moses, but which the Supreme Court of each generation deduced by applying the hermeneutical principles for the interpretation of the Law, and which were decided by those venerable authorities to be the law—all of which, accumulated from the days of Moses to his own time, Rav Ashi put together in the *Gemara*.\*

After the Court of Rav Ashi, who compiled the *Gemara* which was finally completed in the days of his son, an extraordinarily great dispersion of Israel throughout the world took place. The people emigrated to remote parts and distant isles. The prevalence of wars and the march of armies made travel insecure. The study of the

\*See Book XIV, Rebels, ch. I; also Book III, Sanctification of the New Moon, V, 3.

Torah declined. The Jewish people did not flock to the colleges in their thousands and tens of thousands as heretofore; but in each city and country, individuals who felt the divine call gathered together and occupied themselves with the Torah; studied all the works of the sages; and from these learned the method of legal interpretation.

If a court established in any country after the time of the Talmud made decrees and ordinances or introduced customs for those residing in its particular country or for residents of other countries, its enactments did not obtain the acceptance of all Israel because of the remoteness of the Jewish settlements and the difficulties of travel. And as the court of any particular country consisted of individuals (whose authority was not universally recognized), while the Supreme Court of seventy-one members had, several years before the compilation of the Talmud, ceased to exist, no compulsion is exercised on those living in one country to observe the customs of another country; nor is any court directed to issue a decree that had been issued by another court in the same country. So too, if one of the Geonim taught that a certain way of judgment was correct, and it became clear to a court at a later date that this was not in accordance with the view of the Gemara, the earlier authority is not necessarily followed but that view is adopted which seems more reasonable, whether it be that of an earlier or later authority.

The foregoing observations refer to rules, decrees, ordinances, and customs that originated after the Talmud had been compiled. But whatever is already mentioned in the Babylonian Talmud is binding on all Israel. And every city and country is bound to observe all the customs observed by the sages of the Gemara, promulgate their decrees, and uphold their institutions, on the ground that all the customs, decrees, and institutions mentioned in the Talmud received the assent of all Israel, and those sages who instituted the ordinances, issued the decrees, introduced the customs, gave the decisions, and taught that a certain ruling was correct, constituted the total body or the majority of Israel's wise men. They were the leaders who received from each other the traditions concerning the fundamentals of Judaism in unbroken succession back to Moses our Teacher, upon whom be peace.

The sages, however, who arose after the compilation of the Talmud, studied it deeply and became famous for their wisdom, are called Geonim. All these Geonim who flourished in the land of Israel, Babylon, Spain, and France, taught the method of the

Talmud, elucidated its obscurities, and expounded the various topics with which it deals. For its method is exceedingly profound. Furthermore, the work is composed in Aramaic mixed with other languages—this having been the vernacular of the Babylonian Jews at the time when it was compiled. In other countries, however, as also in Babylon in the days of the Geonim, no one, unless specially taught, understood that dialect. Many applications were made to the Gaon of the day by residents of different cities, asking for explanations of difficulties in the Talmud. These, the Geonim answered, according to their ability. Those who had put the questions collected the responses which they made into books for study. The Geonim also, at different periods, composed commentaries on the Talmud. Some of them explained specific laws; others, particular chapters that presented difficulties to their contemporaries; others again expounded complete treatises and entire orders of the Talmud. They also made compilations of settled rules as to things permitted or forbidden, as to infractions which were penal or were not liable to a penalty. All these dealt with matters in regard to which compendia were needed, that could be studied by one not capable of penetrating to the depths of the Talmud. This is the godly work in which all the Geonim of Israel engaged, from the completion of the Talmud to the present date which is the eighth year of the eleventh century after the destruction of the Second Temple.\*

In our days, severe vicissitudes prevail, and all feel the pressure of hard times. The wisdom of our wise men has disappeared; the understanding of our prudent men is hidden. Hence, the commentaries of the Geonim and their compilations of laws and responses, which they took care to make clear, have in our times become hard to understand so that only a few individuals properly comprehend them. Needless to add that such is the case in regard to the Talmud itself—the Babylonian as well as the Palestinian—the *Sifra*, the *Sifre* and the *Tosefta*, all of which works require, for their comprehension, a broad mind, a wise soul, and considerable study, and then one can learn from them the correct practice as to what is forbidden or permitted, and the other rules of the Torah.

On these grounds, I, Moses the son of Maimon the Sefardi, stirred myself, and, relying on the help of God, blessed be He, intently studied all these works, with the view of putting together

\*Cf. to this date (1177), Book III, Sanctification of the New Moon, XI, 16; Book VII, Laws of the Sabbatical Year, X, 4.

the results obtained from them in regard to what is forbidden or permitted, clean or unclean, and the other rules of the Torah—all in plain language and terse style, so that thus the entire Oral Law might become systematically known to all, without citing difficulties and solutions or differences of view, one person saying so, and another something else—but consisting of statements, clear and convincing, and in accordance with the conclusions drawn from all these compilations and commentaries that have appeared from the time of Moses to the present, so that all the rules shall be accessible to young and old, whether these appertain to the (Pentateuchal) precepts or to the institutions established by the sages and prophets, so that no other work should be needed for ascertaining any of the laws of Israel, but that this work might serve as a compendium of the entire Oral Law, including the ordinances, customs, and decrees instituted from the days of our teacher Moses till the compilation of the Talmud, as expounded for us by the Geonim in all the works composed by them since the completion of the Talmud. Hence, I have entitled this work *Mishneh Torah* (Repetition of the Law), for the reason that a person who first reads the Written Law and then this compilation, will know from it the whole of the Oral Law, without having occasion to consult any other book between them.

I have seen fit to arrange this compendium in large divisions of the laws according to their various topics. These divisions are distributed in chapters grouped according to subject matter. Each chapter is subdivided into smaller paragraphs so that they may be systematically memorized. Among the laws in the various topics, some consist of rules in reference to a single Biblical precept. This would be the case when such a precept is rich in traditional matter and forms a single topic. Other sections include rules referring to several precepts when these all belong to one topic. For the work follows the order of topics and is not planned according to the number of precepts, as will be explained to the reader.

The total number of precepts that are obligatory for all generations is 613. Of these, 248 are affirmative; their mnemonic is the number of bones in the human body. 365 precepts are negative and their mnemonic is the number of days in the solar year.

Blessed be the all-merciful who has aided us.

These are the 613 precepts which were orally imparted to Moses on Sinai, together with their general principles, detailed applications,

and minute particulars. All these principles, details, particulars, and the exposition of every precept constitute the Oral Law, which each court received from its predecessor. There are other precepts which originated after the Sinaitic Revelation, were instituted by prophets and sages, and were universally accepted by all Israel. Such are the reading of the Scroll of Esther (on Purim), the kindling of the Hanukkah lights, fasting on the Ninth of Av. . . . Each of these precepts has its special interpretations and details, all of which will be expounded in this work.

All these newly established precepts, we are duty bound to accept and observe, as it is said, "You shall not turn aside from the sentence which they shall declare to you, to the right hand, nor to the left" (Deut. 17:11). They are not an addition to the precepts of the Torah. In regard to what, then, did the Torah warn us, "You shall not add thereto, nor diminish from it" (*ibid.* 13:1)? The purpose of this text is to teach us that a prophet is not permitted to make an innovation and declare that the Holy One, blessed be He, had commanded him to add it to the precepts of the Torah or had bidden him to abrogate one of these 613 precepts. But if the Court, together with the prophet living at the time, institute an additional precept as an ordinance, judicial decision, or decree, this is not an addition (to the precepts of the Torah). For they did not assert that the Holy One, blessed be He . . . ordered the reading of the Scroll of Esther at the appointed time. Had they said this, they would have been adding to the Torah. We hold, however, that the prophets, in conjunction with the Court, enacted these ordinances, and commanded that the Scroll of Esther be read at the appointed time so as to proclaim the praises of the Holy One, blessed be He, recount the salutations that He wrought for us, and that He was ever near when we cried to Him, and that we should therefore bless and laud Him and inform future generations how true is the reassurance of the Torah in the text, "For what great nation is there that has God so near to them, as the Lord our God is [to us], whensoever we call upon Him" (*ibid.* 4:7). In this way every precept, affirmative or negative, instituted by the Scribes, is to be understood.\*

I have seen fit to divide this work into fourteen books.

\*This refutes the Karaite contention that Talmudic law is an illegitimate accretion to Biblical law. See also the anti-Karaite polemic in Book VIII, Daily Offerings, VII, 11; and Book III, Sabbath, ch. II; *Commentary on the Mishnah*, Avot 1:3.